

REMARKS

The application now contains claims 3, 5-7, 10, 14, 15, 23, 24, and 29-42. Claims 3, 5, 7, 10, 14, 23, 24, 39, 40 and 42 have been amended. Claim 4 has been cancelled.

Claims 3-6, 10, 24, 29-31, 33, 34, 37, 38, 40-42 stand rejected under 35 U.S.C. §102(e) as being anticipated by Furumoto (U.S. Patent No. 5,749,868). In view of the present amendments, applicants respectfully request reconsideration and allowance of the claims.

Of the claims rejected over Furumoto, claims 3, 5, 10 and 23 are independent claims. Each of them contains a limitation that is not present in Furumoto.

Claim 3 has been amended to include the limitations of claim 4, which has been cancelled. Applicants submit that claim 4, as previously presented was not *prima facie* anticipated by Furumoto.

Furumoto defines a system in which only electromagnetic radiation is used for heating both the target and the surrounding tissue. Since electromagnetic radiation arrives at the target at substantially the same time as at the surrounding tissue, both would be heated substantially simultaneously. As presently claimed, while the target may be heated during the heating of the surroundings, the target is selectively heated after the surrounding tissue is heated.

Claim 3 (and claim 4 before it was cancelled) requires that the target and the surrounding tissue are heated before the target is selectively heated. Thus, there is no teaching of this limitation in Furumoto.

Claims 5, 10, and 23 have been amended to require that the selective heating of the surrounding tissue occur at least partially after the heating of at least the surrounding tissue. These claims, and the claims dependent on them, are patentable for substantially the same reason as is claim 3.

The other claims in this group are dependent on the independent claims discussed and are patentable for the same reason as the independent claims.

Claims 3, 4, 14, 24, 29-31, 33-38 and 42 stand rejected under 35 U.S.C. §102(e) as being anticipated by Eckhouse (US 6,174,325). In view of the present amendments, applicants respectfully request reconsideration and allowance of the claims. Claim 3 has been amended as indicated above and claims 14, 24 have been amended to require that the selective heating of the surrounding tissue occur at least partially after the heating of at least the surrounding tissue.

As with Furumoto, only electromagnetic radiation is used to heat the skin. Elements 18 in the figures effectively block the heat that is generated by the flash lamps so that no substantially no heat reaches the skin by conduction. In addition, the housing in Fig. 1 is open on the sides so that the amount of heat that reaches the skin, even in the absence of elements 18 is not sufficient to substantially heat the target. Furthermore, even to the extent that the skin is heated by conducted heat this would cause the surrounding and the target to be heated equally. To the extent that the target is below the skin, the surroundings (i.e., the outer skin surface) would be heated to a greater extent than the target and after the target, both of which are different from what is claimed.

It is noted that for the embodiment of Fig. 40, no heat conduction path is provided. Finally, Eckhouse makes clear that the heating of both the target and the surroundings is caused by the very same electromagnetic radiation.

Thus, in all of the embodiments of Eckhouse, the heating of the target and the surroundings is simultaneous and there is no further heating of the target.

Claims 23 and claims 29, 30, 31, 33-37 38 and 42, as dependent on claim 29 stand rejected under 35 U.S.C. §102(e) as being anticipated by Eckhouse (US 5,885,273). In view of the amendments made to claim 23, applicants submit that claim 23, and the claims dependent on claim 23 are patentable. Reconsideration an allowance of the claims is respectfully requested.

As with the Furumoto and the other Eckhouse reference, only a same electromagnetic radiation is used to heat both the target and surroundings. Not only does a solid coupler (used to guide and concentrate the electromagnetic radiation), block any heat conducted from the lamp (see Figs. 3-6 of Eckhouse), the use of a Gel on the skin would provide further insulation from conducted heat, if such was necessary.

Thus, claim 23, which was also amended to include the limitation that the surroundings are heated first, is not anticipated by this Eckhouse reference.

Claim 7 and a number of claims as dependent on claim 7 stand rejected under 35 U.S.C. §103(a) as being unpatentable over by Furumoto (U.S. Patent No. 5,749,868).

Claim 7 has been amended in a manner similar to claims 3, 5, 10 and 23 and claim 7 and claims dependent are patentable for the same reasons given above with respect to the §102 rejection over Furumoto.

Claims 39/3, 39/4, 39/5, 39/6 and 39/41 stand rejected under 35 U.S.C. §103(a) as being unpatentable over by Furumoto in view of Eckhouse. These claims are dependent on independent claims that were discussed above and are patentable at least for the reason that they are dependent on a patentable claim, except for claim 4 which was cancelled.

The examiner mentioned that some of the information disclosure citations were not provided. Applicant will provide them in due course.

In view of the above remarks, applicant submits that the claims are patentable and that the application is ready for allowance. Notice to that effect is respectfully solicited.

Respectfully submitted,
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